WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

ENROLLED

HOUSE BILL No. HB 4482

(By Delegates Whitman, Cafferty, Petrucci, Dempsey, Hendricks, Browning and Staton)

Passed March 12, 1994

In Effect From Passage
AN ACT to amend and reenact section sixty-three, article two, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to underground mines; miners’ health, safety and training; increasing the fee to operator for certificate of approval and permit; entities performing construction or services at mine deemed operators; exceptions; and procedure for obtaining certificate or permit.

Be it enacted by the Legislature of West Virginia:

That section sixty-three, article two, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. UNDERGROUND MINES.

§22A-2-63. No mine to be opened or reopened without prior approval of the director of the office of miners’ health, safety and training; certificate of approval; approval fees; extension of certificate of approval; certificates of approval not transferable; section to be printed on certificates of approval.

(a) After the first day of July, one thousand nine hundred seventy-one, no mine shall be opened or reopened unless prior approval has been obtained from the director of the office of miners health, safety and
training, which approval shall not be unreasonably withheld. The operator shall pay for such approval a fee of one hundred dollars, which payment shall be tendered with the application for such approval: Provided, That mines producing coal solely for the operator's use shall be issued a permit without charge if coal production will be less than fifty tons a year.

Within thirty days after the first day of January of each year, the holder of such permit to open a mine shall apply for the extension of such permit for an additional year. Such permit, evidenced by a document issued by the director, shall be granted as a matter of right for a fee of one hundred dollars if, at the time such application is made, the permit holder is in compliance with the provisions of section seventy-seven of this article and has paid or otherwise appealed all coal mine assessments issued to the mine if operated by the permit holder and imposed under article one of this chapter.

Applications for extension of such permits not submitted within the time required shall be processed as an application to open or reopen a mine and shall be accompanied by a fee of one hundred dollars.

(b) Permits issued pursuant to this section shall not be transferable.

(c) If the operator of a mine is not the permit holder as defined in subsection (a) above, then such operator must apply for and obtain a certificate of approval to operate the mine on which the permit is held prior to commencing operations. An operator who is not the permit holder operating such mine on the tenth day of April, one thousand nine hundred ninety-three, must apply for a certificate of approval on or before the first day of July, one thousand nine hundred ninety-three. The operator shall pay a fee of one hundred dollars, which payment shall be tendered with the application for approval. Such approval, evidenced by a certificate issued by the director, shall be granted if, at the time such application is made, the applicant is in compliance with the provisions of section seventy-seven of this article and has paid or otherwise appealed all coal mine assessments imposed on such applicant for the certifi-
(d) In addition to the authority to file a petition for enforcement under subdivision (4), subsection (a), section twenty-one, article one of this chapter, if an operator holding a certificate of approval issued pursuant to subsection (c) of this section, against whom a civil penalty is assessed in accordance with section twenty-one, article one of this chapter, and implementing regulations, and which has become final, fails to pay the penalty within the time prescribed in such order, the director or the authorized representative of the director, by certified mail, return receipt requested, shall send a notice to such operator advising the operator of the unpaid penalty. If the penalty is not paid in full within sixty days from the issuance of the notice of delinquency by the director, then the director may revoke such operator's certificate of approval: Provided, That such operator to whom the delinquency notice is issued shall have thirty days from receipt thereof to request, by certified mail, return receipt requested, a public hearing held in accordance with the procedures of section seventeen, article one of this chapter, and implementing rules, including application for temporary relief. Once such operator's certificate of approval is revoked pursuant to this subsection, such operator shall be prohibited from obtaining any certificate of approval under the provisions of this section to operate any other mine until such time as that operator pays the delinquent penalties that have become final.

(e) Every firm, corporation, partnership or individual that contracts to perform services or construction at a coal mine shall be deemed to be an operator and beginning the first day of January, one thousand nine hundred ninety-five, must apply for and obtain a certificate of approval prior to commencing operations: Provided, That such persons shall only be required to obtain one certificate annually: Provided however, That persons such as, but not limited to, consultants, mine vendors, office equipment suppliers, and maintenance and delivery personnel are excluded from this requirement. Any such operator shall pay a fee of one hundred
dollars which shall be tendered with the application for approval. Such approval, evidenced by a certificate issued by the director, shall be granted if, at the time such application is made, the applicant has paid or otherwise appealed all coal mine assessments imposed on such applicant under article one of this chapter.

Within thirty days after the first day of January of each year, the holder of such certificate of approval shall apply for the extension of such approval for an additional year. Applications for extension must be accompanied by a fee of one hundred dollars. An extension shall be granted if, at the time such application is made, the applicant has paid or otherwise appealed all coal mine assessments imposed on such applicant under article one of this chapter. All delinquent assessments which have been imposed upon a certificate of approval holder or applicants under this section shall not be imposed upon any permit holder or certificate of approval holder or any applicant pursuant to subsection (a) or (c) of section sixty-three.

(f) The provisions of this section shall be printed on the reverse side of every permit issued under subsection (a) and certificate of approval issued under subsection (d) herein.

(g) The district mine inspector shall be contacted for a pre-inspection of the area proposed for underground mining prior to issuance of any new opening permit approval.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ............. this the ......... day of ......... 1984

Governor